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# भारत का राजपत्र

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शनिवार, जून 12, 1993/ज्येष्ठ 22, 1915

No. 21] NEW DELHI SATURDAY, JUNE 12, 1993/JYAISTHA 22, 1915

इस भाग से भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)  
PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों के छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आवेदन और अधिसूचनाएँ  
Orders and Notifications issued by Central Authorities (other than the Administration of Union Territories)

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

नई दिल्ली, 13 मई, 1993

New Delhi, the 13th May, 1993

आ.प्र. 92:—भारत निर्वाचन आयोग 1990 की निर्वाचन  
अर्जी स. 1 में गुजरात उच्च न्यायालय, श्रहमदावाद, 8—भावनगर  
संसदीय निर्वाचन धर्म से लोक सभा के लिए निर्वाचित श्री जामोद  
शाश्वकांत भावजीभाई के निर्वाचन को प्रणगत करने वाली 1990 के  
तारीख 19-7-1991 वाले निर्णय/प्रादेश को लोक प्रतिनिधित्व अधिनियम,  
1951 (1951 का 43) की धारा 106 के अनुभरण में इसके हारा  
प्रकाशित करता है।

O.N. 92.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgment dated 19-7-1991, of the High Court of Gujarat at Ahmedabad, in Election Petition No. 1 of 1990, calling in question the election of Shri Jamod Shashikant Mavjibhai to the House of the People from 8-Bhavnagar Parliamentary constituency.

[म. 82/गुज-लो. स. / (1990 का 1) / 93]

[No. 82/GJ-HP/(1 of 1990)/93]

ग्रादेश से,  
बलवन्त सिंह, मंत्री

By order,

BALWANT SINGH, Secy.

IN THE COURT OF GUJARAT AT AHMEDABAD  
ELECTION PETITION NO. 1 OF 1990

AND

## RECRIMINATION PETITION NO. 1 OF 1990

Shri Pravinsinhji Ratansinhji Jedeja—Petitioner.

Versus

Shri Arjunbhai Bhagabhai Natarwala &amp; others.

—Respondents

CORAM : M. B. SHAH, J.

## ORAL JUDGMENT :

## ELECTION PETITION NO. 1 OF 1990

AND

## RECRIMINATION PETITION NO. 1 OF 1990

Date of Decision—19th July 1991.

The Hon'ble Mr. Justice M. B. Shah.

No. (1) Yes.

Nos. (2) to (5) No.

Election Petition No. 1/90.

Mr. K. S. Zaveri for the petitioner.

Mr. K. M. Patel for respondent No. 6.

Respondent Nos. 1 to 5 and 7 to 15 served.

Respondent Nos. 16 and 17 deleted.

Recrimination Petition No. 1/90.

Mr. K. M. Patel for respondent No. 6.

Copy to served petitioner's advocates Mr. K. S. Zazeri and  
Mr. M. R. AnandCORAM : M. B. SHAH, J.  
(19-7-91)

## ORAL JUDGMENT

In the aforesaid Election Petition the petitioner was a candidate for election of 8, Bhavnagar Parliamentary constituency for which election was held on 24 November 1989.

The petitioner secured 1,42,732 votes while on Jomed Shashikant Mavjibhai (Deceased) respondent No. 1 secured 1,43,284 votes. Therefore it was declared that the petitioner has lost election by a margin of 552 votes. In the election petition various allegations are made with regard to alleged corrupt practices committed by respondent No. 6.

However, pending disposal of the election petition the original respondent No. 6 the elected candidate expired on 19-9-90. The matter was repeatedly adjourned at the request of the learned advocates for the parties for production of death certificate. After the death certificate was produced, notice of such event was published in official Gazette as provided under section 115 of the Representation of People Act, 1951. That notice was published in Gujarat Government Gazette dated November 29, 1990. Inspite of the notice, none had filed any application for being substituted for the original respondent No. 6 to Oppose the election petition.

Considering the fact that original respondent No. 6 against whom various allegations are made, has expired, it is apparent that the cause of action against him would not survive. The allegations of corruption cannot be inquired into and adjudicated upon in absence of respondent No. 6. Therefore, the petition would not survive. Further, Recrimination Petition No. 1 of 1990 of respondent No. 6 also would not survive.

Mr. Zaveri, learned advocate who is appearing for the original petitioner, submitted that apart from the fact that respondent No. 6 has expired, at present the cause of action of filing this election petition would also not survive in the view of the fact that the 9th Lok Sabha had been dissolved and fresh Parliamentary election had taken place in June 1991.

In view of the aforesaid facts, in my view no case of action for the Election Petition No. 1 of 1990 would survive. Hence it is required to be dismissed and is, therefore, dismissed with no orders as to costs. The Registrar is directed to refund the amount deposited by the petitioner.

Similarly Recrimination Petition No. 1 of 1990 also would not survive and is, therefore, dismissed with no order as to costs. The Registrar is directed to refund the amount deposited by respondent No. 6 in Recrimination on Petition No. 1 of 1990 to his heirs and legal representative if they file proper application for grant of refund.